

MINERAL LEASING OF CERTAIN INDIAN LANDS IN
OKLAHOMA

SEPTEMBER 27, 1999.—Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

Mr. YOUNG of Alaska, from the Committee on Resources,
submitted the following

R E P O R T

[To accompany S. 944]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (S. 944) to amend Public Law 105-188 to provide for the mineral leasing of certain Indian lands in Oklahoma, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of S. 944 is to amend Public Law 105-188 to provide for the mineral leasing of certain Indian lands in Oklahoma.

BACKGROUND AND NEED FOR LEGISLATION

S. 944 would amend Public Law 105-188 to provide for the mineral leasing of certain Indian lands in southwestern Oklahoma. Public Law 105-188 was enacted in 1998 to amend the Indian Leasing Act (25 U.S.C. 396) to authorize the Secretary of the Interior to approve any mineral lease which affects an individually-owned Indian tract of land within the Fort Berthold Indian Reservation in North Dakota if two conditions were met: (1) the Indian owners of a majority of the undivided restricted interests in the tract of land consent to the mineral lease; and (2) the Secretary determines that approving the lease is in the best interest of the Indian owners. Public Law 105-188 also made the approval of a lease

binding on all owners of interests in the leased tract and provided for the distribution of proceeds of the lease to all owners in accordance with the interest owned by each owner.

S. 944 would amend Public Law 105-188 to include individually owned Indian lands within the former reservations of the Comanche, Kiowa, Apache, Fort Sill Apache, Wichita, Keechi, Waco and Tawakonie Tribes in Oklahoma.

S. 944 would facilitate oil and gas exploration on these individual Indian owned lands by allowing the Secretary of the Interior to approve mineral leases, affecting individually-owned Indian land, if a majority of the owners of the undivided mineral interest consent to that mineral lease. S. 944 would thereby supersede a 1909 law which provides that the Secretary may not approve a mineral lease affecting individually-owned Indian land unless every single person who has an undivided mineral interest in that land consents.

The requirements of the 1909 law have proven to be so difficult to meet that very little oil production has taken place on some individually-owned Indian land within certain geological basins. One exploration and development project has been proposed in southwestern Oklahoma which would cover 18 sections of land which include 4,475 acres of restricted Indian lands owned by members of the Tribes specified in S. 944. The ownership of these Indian lands has been fractionated among 619 restricted Indian owners. Twenty-four of the Indian tracts contain interests which are currently part of at least 29 unprobated estates. Many of the individual Indians involved have not been identified. To date, obtaining the leases necessary to drill and develop this area has proven to be infeasible. The resultant economic loss to individual Indian owners as well as the aforementioned Indian Tribes has been significant.

The Administration supports S. 944 as do all of the Tribes specified in the bill.

COMMITTEE ACTION

S. 944 was introduced by Senator James Inhofe (R-OK) on May 3, 1999. The bill was passed by the Senate on August 5, 1999, by unanimous consent, and referred to the Committee on Resources. On September 22, 1999, S. 944 was ordered favorably reported from the Committee on Resources by voice vote with no amendments.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 of the Constitution of the United States grants Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. *Cost of Legislation.*—Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. *Congressional Budget Act.*—As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

3. *Government Reform Oversight Findings.*—Under clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform on this bill.

4. *Congressional Budget Office Cost Estimate.*—Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 27, 1999.

Hon. DON YOUNG,
*Chairman, Committee on Resources,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN. The Congressional Budget Office has prepared the enclosed cost estimate for S. 944, an act to amend Public Law 105–188 to provide for the mineral leasing of certain Indian lands in Oklahoma.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Megan Carroll.

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

S. 944—An act to amend Public Law 105–188 to provide for the mineral leasing of certain Indian lands in Oklahoma

S. 944 would modify the conditions under which the Secretary of the Interior may approve a mineral lease or agreement that affects individually owned Indian land on certain former Indian reservations in Oklahoma. Under current law, approval of such leases requires the consent of all of the individuals that have an undivided interest in a property. This legislation would ease that requirement by making the Secretary's approval contingent upon the consent of a simple majority of individual owners. Once approved by the Secretary, an agreement would be binding on all owners of the prop-

erty, and any receipts would be distributed in proportion to each owner's interest in the property.

Based on information from the Bureau of Indian Affairs, CBO estimates that implementing this act would not significantly affect discretionary spending. CBO estimates that implementing S. 944 would have no effect on direct spending or receipts, because any income resulting from agreements approved under this legislation would be paid directly to the Indian owners or to the appropriate tribal government. Hence, pay-as-you-go procedures would not apply to the act.

S. 944 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

On June 22, 1999, CBO transmitted a cost estimate for S. 944, as ordered reported by the Senate Committee on Indian Affairs on June 16, 1999. The two versions of the legislation are identical, as are the two cost estimates.

The CBO staff contact is Megan Carroll. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italic*, existing law in which no change is proposed is shown in roman):

ACT OF JULY 7, 1998

AN ACT To permit the mineral leasing of Indian land located within the Fort Berthold Indian Reservation *and certain former Indian reservations in Oklahoma* in any case in which there is consent from a majority interest in the parcel of land under consideration for lease.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. LEASES OF ALLOTTED LANDS OF THE FORT BERTHOLD INDIAN RESERVATION.]

SECTION 1. LEASES OF CERTAIN ALLOTTED LANDS.

(a) IN GENERAL.—

(1) DEFINITIONS.—In this section:

(A) INDIAN LAND.—The term “Indian land” means an undivided interest in a single parcel of land that—

[(i) is located within the Fort Berthold Indian Reservation in North Dakota; and]

(i) *is located within—*

(I) *the Fort Berthold Indian Reservation in North Dakota; or*

(II) *a former Indian reservation located in Oklahoma of—*

(aa) the Comanche Indian Tribe;

bb) the Kiowa Indian Tribe;

(cc) the Apache Tribe;

(dd) the Fort Sill Apache Tribe of Oklahoma;

(ee) the Wichita and Affiliated Tribes (Wichita, Keechi, Waco, and Tawakonie) located in Oklahoma;

(ff) the Delaware Tribe of Western Oklahoma; or

(gg) the Caddo Indian Tribe; and

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